

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

KELLY MILLIGAN,  
ON BEHALF OF HIMSELF AND  
ALL OTHERS SIMILARLY SITUATED,

Plaintiff,

vs.

MERRILL LYNCH, PIERCE, FENNER &  
SMITH INC., BANK OF AMERICA CORP.,  
and JOHN/JANE DOE 1, THE SENIOR VICE  
PRESIDENT–HUMAN RESOURCES  
GLOBAL BANKING AND GLOBAL  
WEALTH AND INVESTMENT  
MANAGEMENT ADMINISTRATION AT  
BANK OF AMERICA CORP.,

Defendants.

Civil Action No. 3:24-cv-00440-KDB-  
DCK

Judge Kenneth D. Bell  
Magistrate Judge David Keesler

CLASS ACTION

**PLAINTIFF’S UNOPPOSED MOTION TO FILE UNDER SEAL CERTAIN  
EXHIBITS TO THEIR RESPONSE BRIEF IN OPPOSITION TO  
DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 5.2(d) of the Federal Rules of Civil Procedure and Local Rule 6.1 Plaintiff Kelly Milligan, on behalf of himself and all others similarly situated (“Plaintiff”), hereby moves the Court to enter an order allowing Plaintiff to file a copy of certain exhibits to Plaintiff’s Memorandum of Law, as well as an unredacted version of such Memorandum of Law, under seal. Plaintiff has conferred with Defendants concerning this Motion, and Defendants do not oppose the relief requested herein.

Specifically, Plaintiff seeks to file the following materials under seal:

- An unredacted version of *Plaintiff’s Response Brief in Opposition to Defendants’ Motion for Summary Judgment* (“Response Brief”);

- An unredacted version of the Declaration of M. Zane Johnson (“Johnson Declaration”);
- Exhibit A to the Johnson Declaration – an excerpt from a spreadsheet produced by Defendants containing information about each WealthChoice award payment made to Merrill financial advisors (spreadsheet produced as MERRILL\_WDNC\_00000001); and
- Exhibit F to the Johnson Declaration – document titled “US GAAP Month Ledger,” which shows Merrill’s calculated values for various components of FA compensation for 2022 and 2023.

The grounds for this relief are more fully set forth in Plaintiff’s accompanying Memorandum in Support of this Motion to Seal.

WHEREFORE, Plaintiff respectfully requests that the Court grant this Motion and enter an Order that Plaintiff may file the documents listed above under seal.

Dated: December 6, 2024

Respectfully submitted,

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### **CERTIFICATE ON USE OF ARTIFICIAL INTELLIGENCE**

I, John D. Hurst, an attorney, certify, as required by the Court's June 18, 2024 Order in *In re Use of Artificial Intelligence*, No. 3:24-mc-104 (W.D.N.C.), that:

1. No artificial intelligence was employed in doing the research for the preparation of this document, with the exception of such artificial intelligence embedded in the standard on-line legal research sources Westlaw, Lexis, FastCase, and Bloomberg; and
2. Every statement and every citation to an authority contained in this document has been checked by an attorney in this case and/or a paralegal working under his/her direction as to the accuracy of the proposition for which it is offered, and the citation to authority provided.

/s/ John D. Hurst  
John D. Hurst

### **CERTIFICATE OF SERVICE**

I, John D. Hurst, an attorney, certify that on December 6, 2024, I caused a copy of the foregoing document to be filed through the Court's CM/ECF Electronic Filing System, which will transmit notice of such filing to all counsel of record.

/s/ John D. Hurst  
John D. Hurst